

Amendment No. 1 to SB2318

Person, Curtis
Signature of Sponsor

AMEND Senate Bill No. 2318*

House Bill No. 2334

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting Section 2 of the printed bill and by substituting instead the following:

SECTION 2. Tennessee Code Annotated, Section 39-17-431, is amended by deleting the existing language in its entirety and substituting instead the following:

§ 39-17-431.

(a) Except as provided in this section, any product that contains any immediate methamphetamine precursor may be dispensed only by a licensed pharmacy.

(b)

(1) A product that contains any immediate methamphetamine precursor shall be exempt from the requirements of this section if the ingredients of the product are not in a form that can be used in the manufacture of methamphetamine.

(2) The board of pharmacy, in consultation with the bureau of investigation, shall determine whether a product that contains any immediate methamphetamine precursor is not in a form that can be used in the manufacture of methamphetamine. In making such a determination, the board shall solicit the written opinion of the bureau and work with the bureau to develop procedures that consider, among other factors,

(A) ease with which the product can be converted to methamphetamine, including the presence or absence of a "molecular lock" completely preventing the product's use in methamphetamine manufacture;

(B) ease with which pseudoephedrine can be extracted from the substance and whether it forms a salt, emulsion, or other form:

(C) any other pertinent data that can be used to determine the risk of the product being viable in the illegal manufacture of methamphetamine.

(3) The board of pharmacy shall maintain a public list of such exempted products. Any person may request that a product be included on the exemption list. Such a list shall include, but not be limited to, products in the form of gel capsules and liquid preparations that contain any immediate methamphetamine precursor. The term "gel capsule" means any soft gelatin liquid-filled capsule that contains a liquid suspension, which, in the case of pseudoephedrine, is suspended in a matrix of glycerin, polyethylene glycol, and propylene glycol, along with other liquid substances. Regardless of the product manufacturer's labeling, a gelatin-covered solid does not constitute a "gel capsule" under this provision.

(c) A pharmacy shall not sell to the same person more than three individual packages of any non-exempt product containing any immediate methamphetamine precursor, nor shall a pharmacy sell to the same person any combination of such products containing more than 9 grams of ephedrine, pseudoephedrine, or their salts, isomers, or salts of isomers, during the same 30-day period. The 9-gram limit shall apply to the total amount of base ephedrine and pseudoephedrine contained in the products, and not the overall weight of the products. The prohibition contained in this subsection shall not apply to a person who obtains the product or products pursuant to a valid prescription issued by a licensed physician, certified physician assistant, or nurse authorized pursuant to Tennessee Code Annotated, Section 63-6-204,

who is rendering service under the supervision, control and responsibility of a licensed physician and who meets the requirements pursuant to Tennessee Code Annotated, Section 63-7-207(13).

(d) The pharmacist, or any pharmacy technician or pharmacy intern under the supervision of the pharmacist, shall require any person purchasing a non-exempt product that contains any immediate methamphetamine precursor to present valid government-issued identification at the point of sale. The pharmacist, pharmacy technician or pharmacy intern shall maintain an electronic record of the sale under this subsection in the form of a pharmacist prescription order as provided by Tennessee Code Annotated, Section 63-10-206(c). The electronic record shall include the name of purchaser, name and quantity of product purchased, date purchased, purchaser identification type and number (such as driver license state and number), and the identity (such as name, initials, or identification code) of the dispensing pharmacist, pharmacy technician or pharmacy intern. If a system is not able to record the identification type and number, the pharmacist, pharmacy technician or pharmacy intern shall write the identification type and number on the prescription order. The electronic record also shall be maintained in such a manner that allows for the determination of the equivalent number of packages purchased and total quantity of base ephedrine or pseudoephedrine purchased. In lieu of maintaining an electronic record, a pharmacy may maintain a written register containing the name of purchaser, name of product purchased, date purchased, number of packages purchased, total quantity of base ephedrine or pseudoephedrine purchased, purchaser identification type and number (such as driver license state and number), purchaser's signature and name or initials of the pharmacist, pharmacy technician or pharmacy intern completing the transaction. A pharmacy choosing to maintain a written register must retain the register for at least one year. The obligation of meeting the requirements of this section rests with the pharmacist.

(e) Non-exempt products containing an immediate methamphetamine precursor shall be maintained behind the counter of the pharmacy or in a locked case within view of and within 25 feet of the counter.

(f) A violation of any provision of this section is a Class A misdemeanor, punishable by fine only. If the person in violation is a licensed pharmacy or pharmacist, such violation shall be reported to the Board of Pharmacy for review and appropriate action. If a product is dispensed in violation of subsection (a), the owner or operator of the wholesale or retail establishment dispensing such product shall be in violation of subsection (a).

(g) This section shall supersede any local laws or ordinances currently regulating sales of products containing any immediate methamphetamine precursor.

AND FURTHER AMEND by deleting Section 11 of the printed bill and by substituting instead the following:

(c) Possession of more than 20 grams of an immediate methamphetamine precursor shall be prima facie evidence of intent to violate this section. This subsection (c) shall not apply to the following persons or entities that lawfully possess drug products in the course of legitimate business activities: (1) A pharmacy or pharmacist licensed by the board of pharmacy; (2) a wholesale drug distributor, or its agents, licensed by the board of pharmacy; (3) a manufacturer of drug products, or its agents, licensed by the board of pharmacy; and (4) a licensed healthcare professional possessing the drug products in the course of carrying out his profession.

AND FURTHER AMEND by deleting Section 13 of the printed bill and by substituting instead the following:

SECTION 13. Tennessee Code Annotated, Title 39, Chapter 17, Part 4, is amended by adding the following as a new, appropriately designated section:

(a) There is hereby created within the bureau of investigation a registry of persons convicted after the effective date of this Act of a violation of 39-17-

417 involving any substance defined in section 39-17-408(d)(2) or of section 10 of this Act.

(b) This registry shall be maintained by the bureau of investigation and made available for public inquiry on the Internet.

(c) The registry shall consist of the person's name, date of birth, offense(s) making him or her eligible for inclusion on the registry, the conviction date and county of said offenses, and such other identifying data as the bureau of investigation determines is necessary to properly identify the person, but shall not include the person's social security number.

(d) Starting September 1, 2005, the court clerks shall forward a copy of the judgment and date of birth of all persons who are convicted of a violation of the offenses described in subsection (a) to the bureau of investigation. Such information shall be forwarded to the bureau within 45 days of the date of judgment.

(e) The bureau of investigation shall remove from the registry the name and other identifying information of persons who are convicted of a violation of the offenses described in subsection (a) seven years after the date of the most recent judgment.